

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GUSTAVIA HOME, LLC,

Plaintiff,

v.

ENVIRONMENTAL CONTROL BOARD, HSBC  
BANK USA NATIONAL ASSOCIATION *as*  
*Trustee for Deutsche Alt-A Securities Mortgage*  
*Loan Trust, Series 2007-OA5*, and CITY OF NEW  
YORK PARKING VIOLATIONS BUREAU,

Defendants.

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**ORDER**

18-CV-06485 (MKB) (CLP)

MARGO K. BRODIE, United States District Judge:

On August 21, 2019, Magistrate Judge Cheryl L. Pollak issued a report and recommendation, recommending that the Court deny Plaintiff's motion for a default judgment ("R&R"). (R&R, Docket Entry No. 16.) Specifically, Judge Pollak recommended that the Court deny Plaintiff's motion "for default judgment cancelling and discharging the Disputed Mortgage" and dismiss the Complaint "for failure to state a claim." (*Id.* at 19.) Judge Pollak also recommended that Plaintiff "be allowed 30 days to file an Amended Complaint setting forth the necessary elements required to bring an action under RPAPL [New York Real Property and Proceedings Law] Section 1501(4), and that [P]laintiff be ordered to serve the Amended Complaint upon [D]efendants in accordance with the Federal Rules of Civil Procedure." (*Id.* at 19–20.)

No party has objected to the R&R. The Court has reviewed the unopposed R&R for clear error. Finding no clear error, the Court adopts the R&R in its entirety pursuant to 28 U.S.C. §

636(b)(1), denies Plaintiff's motion for default judgment, and dismisses the Complaint. The Court grants Plaintiff thirty (30) days from the date of this Order to file an Amended Complaint.

Dated: September 11, 2019  
Brooklyn, New York

SO ORDERED:

s/ MKB  
MARGO K. BRODIE  
United States District Judge